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5 Attorney for Plaintiff  
United States of America

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

11 || UNITED STATES OF AMERICA,

Case No. CV11-6473 SLM

12 Plaintiff,

13 v.

# **WRIT OF CONTINUING GARNISHMENT**

14 || BINH T. BUI,

**Defendant.**

16 || and

and

# UNIVERSITY OF CALIFORNIA SAN FRANCISCO.

Garnishee.

20 TO: Garnishments  
UNIVERSITY OF CALIFORNIA SAN FRANCISCO  
1855 Folsom Street, Suite 425  
Box 0812  
21 San Francisco, CA 94143-0812  
22

23 YOU ARE HEREBY COMMANDED TO GARNISH FOR THE BENEFIT OF  
24 THE UNITED STATES OF AMERICA THE WAGES, SALARY, OR COMMISSION IN  
25 YOUR CUSTODY, CONTROL, OR POSSESSION IN WHICH THE DEFENDANT-  
26 JUDGMENT DEBTOR HAS AN OWNERSHIP INTEREST.

27 The name, SSN XXX-XX-5872, and last known address of the person who is  
28 the defendant-judgment debtor (hereinafter “debtor”) in this action and whose property

1 is subject to this Writ are as follows:

2        BINH T. BUI  
3        1386 Holly Hill Drive  
3        San Jose, CA 95122

4        This Writ has been issued at the request of the United States of America to  
5 enforce the collection of a civil judgment entered in favor of the United States against  
6 the debtor for a defaulted student loan in the amount of \$9,457.03. There is a balance  
7 of \$5,577.96 due on the judgment, which amount includes costs and interest  
8 computed through February 19, 2019; interest continues to accrue until paid in full.

9        The following are the steps that you must take to comply with this Writ. If you  
10 have any questions, you should consult with your attorney.

11        1. Pursuant to 28 U.S.C. § 3205(c)(2)(F), if you have in your custody, control,  
12 or possession any property of the debtor, including wages, salary, or commissions, in  
13 which the debtor has a substantial nonexempt interest, or if you obtain custody,  
14 control, or possession of such property while this Writ is in effect, you must  
15 immediately withhold such property from the debtor and retain it in your possession  
16 until you receive instructions from the Court which will tell you what to do with the  
17 property. The United States has requested that the sum of 25% of the debtor's  
18 disposable earnings, which under California law represents the nonexempt portion of  
19 the debtor's earnings, be withheld from the defendant's earnings.

20        2. Pursuant to 28 U.S.C. § 3205(c)(2)(E), you are required to answer this Writ  
21 within 10 days after service of this Writ upon you. You must answer the Writ even if  
22 you do not have in your custody, control, or possession any property of the debtor.  
23 Pursuant to 28 U.S.C. § 3205(c)(4), your answer must state, under oath, the following  
24 information:

25            a. Whether or not you have in your custody, control, or possession, any  
26                    property owned by the debtor in which the debtor has a substantial  
27                    nonexempt interest, including nonexempt, disposable earnings;

- 1           b.     a description of such property and the value of such property;
- 2           c.     a description of any previous garnishments to which such property is
- 3                 subject and the extent to which any remaining property is not exempt;
- 4                 and
- 5           d.     the amount of the funds you anticipate owing to the debtor in the future
- 6                 and whether the period for payment will be weekly or another specified
- 7                 period.

8     For your convenience, a form which addresses the above-requested information is  
9     attached and may be used to Answer the Writ.

10           3. After you complete the answer under oath, pursuant to 28 U.S.C. §  
11           3205(c)(2)(E) & (c)(4), within ten (10) days after service of this Writ upon you, you  
12           must mail or deliver the original Answer bearing the original signature of the person  
13           preparing the answer to the Court at the following address:

14                          Civil Clerk, United States District Court  
15                          450 Golden Gate Avenue, 16th Floor  
15                          San Francisco, CA 94102

16           At the same time that you mail or deliver the original answer to the Court, you must  
17           also mail or deliver a copy of the original Answer to both the debtor and attorney for  
18           the United States at the following respective addresses:

19                          BINH T. BUI  
20                          1386 Holly Hill Drive  
20                          San Jose, CA 95122

21                          Michael Cosentino, Counsel for the United States  
22                          P.O. Box 129  
22                          Alameda, CA 94501

23           Please note that the attached form Answer contains a certificate of service which  
24           needs to be completed by the person mailing the copies of the answer to the debtor  
25           and the attorney for the United States, and which needs to be filed along with the  
26           Answer.

27                          **IF YOU FAIL TO ANSWER THIS WRIT OR FAIL TO WITHHOLD PROPERTY**

1 IN ACCORDANCE WITH THIS WRIT, THE UNITED STATES MAY PETITION THE  
2 COURT FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO  
3 ANSWER THE WRIT AND TO WITHHOLD PROPERTY IN ACCORDANCE WITH  
4 THE WRIT BEFORE THE APPEARANCE DATE. IF YOU FAIL TO APPEAR OR DO  
5 APPEAR AND FAIL TO SHOW GOOD CAUSE WHY YOU FAILED TO COMPLY  
6 WITH THIS WRIT, THE COURT WILL ENTER A JUDGMENT AGAINST YOU FOR  
7 THE VALUE OF THE DEBTOR'S NONEXEMPT INTEREST IN SUCH PROPERTY  
8 (INCLUDING NONEXEMPT DISPOSABLE EARNINGS). THE COURT MAY ALSO  
9 AWARD A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AND  
10 AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN THE TIME SPECIFIED  
11 HEREIN AND IF THE UNITED STATES FILES A PETITION REQUIRING YOU TO  
12 APPEAR.

13 SUSAN Y. SOONG, Clerk  
14 United States District Court  
for the Northern District of California

16 | Dated: 2/22/2019

By:

**Deputy Clerk**  
Mark Romyn



1 DO NOT WITHHOLD THE EXEMPT PORTION OF THE EMPLOYEE'S EARNINGS  
2

3       1. Earnings include any money (whether called wages, salary, commissions,  
bonuses, or anything else) paid for personal services, pension, or retirement.  
Vacation or sick pay is earnings subject to withholding as it is *received* by the  
4 employee.

5       2. Disposable earnings are different from gross pay or take-home pay. They  
are the earnings left after deducting the part which state or federal law requires an  
6 employer to withhold as mandatory deductions. Generally, these mandatory  
7 deductions are federal income tax, social security (FICA) tax, state income tax, state  
disability insurance, and payments to public employee retirement systems.  
Disposable earnings can change from pay period to pay period, whenever gross pay  
8 or required deductions change.

9           To determine earnings that<sup>1</sup> are eligible for withholding, and therefore must be  
withheld, see the chart below.

10 USE THE CHART BELOW TO DETERMINE NONEXEMPT DISPOSABLE  
11 EARNINGS AND THE APPLICABLE WITHHOLDING AMOUNT<sup>1</sup> :

Pay Period: Weekly or oftener	Every 2 weeks	Twice a month	Once a month
<b>Disposable earnings:</b> \$ 0 to \$217.50	\$ 0 to \$435.00	\$ 0 to \$471.25	\$ 0 to \$942.50
<b>Withhold:</b> Nothing (entire earnings are exempt)			
<b>Disposable earnings:</b> \$217.51 to \$290.00	\$435.01 to \$580.00	\$471.26 to \$628.33	\$942.51 to \$1,256.67
<b>Withhold:</b> Amt. over \$217.50	Amt. over \$435.00	Amt. over \$471.25	Amt. over \$942.50
<b>Disposable earnings:</b> \$290.01 or more	\$580.01 or more	\$628.34 or more	\$1,256.68 or more
<b>Withhold:</b> 25% of disposable earnings (balance is exempt)			

28       <sup>1</sup>Based on the Federal Minimum Wage Earnings of \$7.25 an hour, effective 07/24/2009

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4  
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6  
7  
8                          IN THE UNITED STATES DISTRICT COURT  
9                          FOR THE NORTHERN DISTRICT OF CALIFORNIA

10  
11                          UNITED STATES OF AMERICA,                          }  
12    Plaintiff,                          } Case No. CV11-6473 SLM  
13                          v.    }  
14                                  BINH T. BUI,    }  
15    Defendant,                                  }  
16    and    }  
17                                  UNIVERSITY OF CALIFORNIA                                  }  
18    Garnishee.    } ANSWER OF GARNISHEE  
19

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20                          I, \_\_\_\_\_, being first duly sworn, hereby state the following:  
21                          1. I am the \_\_\_\_\_ (Official Title) of the Garnishee  
22 named in the above caption. I am authorized to prepare this Answer on behalf of the  
23 Garnishee.  
24                          2. The Garnishee was served with the Writ of Continuing Garnishment on  
25 \_\_\_\_\_ (date) in this action.  
26                          3. The Garnishee currently has custody, control, or possession of earnings of  
27 the Defendant. Yes\_\_\_\_ No\_\_\_\_\_  
28                          4. The Garnishee expects to obtain custody, control, or possession of earnings

1 of the Defendant in the foreseeable future. Yes \_\_\_\_\_ No \_\_\_\_\_

2       5. For the pay period in effect on the date of service of this Writ of Continuing  
3 Garnishment, the Garnishee states as follows:

a. Defendant was in my/our employ. Yes        No

5 b. The Defendant's pay period is \_\_\_\_\_ weekly, \_\_\_\_\_ bi-weekly,  
6 \_\_\_\_\_ semi-monthly, \_\_\_\_\_ monthly.

7       c. The Defendant's present pay period began on \_\_\_\_\_ (date).  
8            ("Present" means the pay period in which the Writ of Continuing  
Garnishment was served.)

9 d. The Defendant's present pay period ends on \_\_\_\_\_ (date).

10 e. The Defendant's net wages are as calculated below:

11 (1) Gross Pay \$ \_\_\_\_\_

12 (2) Federal income tax \$ \_\_\_\_\_

13 (3) F.I.C.A. tax \$ \_\_\_\_\_

14 (4) State income tax \$ \_\_\_\_\_

15 (5) SDI \$ \_\_\_\_\_

16 Total tax withholdings \$ \_\_\_\_\_

17 Net Wages \$ \_\_\_\_\_  
18 (gross pay minus above withheld taxes)

19 6. Are there any other garnishments currently in effect? Yes No

If the answers is yes, describe below and attach to this Answer a copy of each garnishment:

23

24 | Page

25 7 Will the Garnishee owe the Defendant money in the foreseeable future?

26 Yes        No        If the answer is yes, provide the reason why such money will be  
27 owed, the amount of money that will be owed, and the date or dates on which each

1 payment will be due:

2	3 <u>Type of Payment</u>	4 <u>Amount</u>	5 <u>Date Payment Will be Due</u>
6	7 1. _____	8 _____	9 _____
10	11 2. _____	12 _____	13 _____
14	15 3. _____	16 _____	17 _____

18 8. Does the Garnishee currently have custody, control or possession of property  
9 (other than earnings) such as bank accounts, pensions, thrift plans, etc., in which the  
10 Defendant maintains an interest? Yes\_\_\_\_\_ No\_\_\_\_\_ If the answer is yes, then  
11 provide the following information for each item of such property:

12	13 <u>Description of Property</u>	14 <u>Approximate Value</u>	15 <u>Description of Defendant's Interest</u>
16	17 1. _____	18 _____	19 _____
20	21 2. _____	22 _____	23 _____
24	25 3. _____	26 _____	27 _____
28	29 4. _____	30 _____	31 _____

32 9. Does the Garnishee expect to obtain in the foreseeable future custody,  
33 control or possession of property (other than earnings) such as bank accounts,  
34 pensions, thrift plans, etc., in which the Defendant maintains an interest? Yes\_\_\_\_\_  
35 No\_\_\_\_\_ If the answer is yes, then provide the following information for each item of  
36 such property:

37	38 <u>Description of Property</u>	39 <u>Approximate Value</u>	40 <u>Description of Defendant's Interest</u>	41 <u>Date Will Obtain Property</u>
42	43 1. _____	44 _____	45 _____	46 _____
47	48 2. _____	49 _____	50 _____	51 _____
52	53 3. _____	54 _____	55 _____	56 _____
57	58 4. _____	59 _____	60 _____	61 _____

1        10. Does the Garnishee have any objections or defenses to the Writ of  
2 Continuing Garnishment? Yes \_\_\_\_\_ No \_\_\_\_\_ If the answer is yes, list the nature  
3 and basis of each objection and/or defense:

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 On behalf of UNIVERSITY OF CALIFORNIA SAN FRANCISCO, I hereby certify  
10 under penalty of perjury under the laws of the United States of America that the  
11 foregoing is true and correct.

13 Telephone # \_\_\_\_\_

15 | Fax # \_\_\_\_\_

18 Dated: \_\_\_\_\_ By: \_\_\_\_\_

(Sign above and type or print name below)

## CERTIFICATE OF SERVICE

I, \_\_\_\_\_, declare:

That I am a citizen of the United States and employed in the County of

\_\_\_\_\_ , California; that my business address is

\_\_\_\_\_ ; that I am

over the age of eighteen years; and that I am not a party to the above-entitled action;

That on \_\_\_\_\_ (date), I deposited in the United States mail, in

envelopes bearing the requisite postage, a copy of:

## **ANSWER OF GARNISHEE**

10 addressed to each of the following, at their last known addresses, at which place there  
11 is service by United States mail.

12 BINH T. BUI  
13 1386 Holly Hill Drive  
San Jose, CA 95122

14 Michael Cosentino  
Counsel for the United States  
15 P.O. Box 129  
Alameda, CA 94501

17 I have caused, or will cause, the original of the ANSWER OF GARNISHEE to be  
18 filed in the United States District Court pursuant to the instruction for same in  
19 paragraph # 3 of the Writ.

20 This Certificate was executed on \_\_\_\_\_ (date),

21 at (city), (state).

22 I certify under penalty of perjury that the foregoing is true and correct.

(sign above the line and type or print name below)